



10-8-03

AF/37483

PTO/SB/21 (08-03)
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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number 10/051,003

Filing Date 01/18/2002

First Named Inventor Patrick C. Marks et al

Art Unit 3748

Examiner Name Tu M. Nguyen

Attorney Docket Number 9319

Total Number of Pages in This Submission

16

ENCLOSURES (Check all that apply)

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Response to Missing Parts/
Incomplete ApplicationResponse to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional ApplicationPower of Attorney, Revocation
Change of Correspondence Address

Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

After Allowance communication
to Technology Center (TC)Appeal Communication to Board
of Appeals and Interferences
Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please
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TECHNOLOGY CENTER R3700

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENTFirm
or
Individual name

William W. Habelt

Signature

Date

October 7, 2003

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PTO SB/17 (10-03)
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PATENT FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 330.00

Complete if Known

Application Number	10/051,003
Filing Date	01/18/2002
First Named Inventor	Patrick C. Marks et al
Examiner Name	Tu M. Nguyen
Art Unit	3748
Attorney Docket No.	9319

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METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number	03-0835
Deposit Account Name	Carrier Corporation

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	330.00
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 330.00

SUBMITTED BY

Name (Print/Type)	William W. Habelt	Registration No. (Attorney/Agent)	29,162	Telephone	315.433.4819
Signature	<i>William W. Habelt</i>	Date	10/07/2003		

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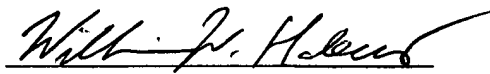


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The following items of correspondence are being transmitted under this Certificate of Mailing re:

Applicant: Patrick C. Marks, et al
Serial No.: 10/051,003
Filed: January 18, 2002
Title: MULTIPLE FREQUENCY HELMHOLTZ RESONATOR

Transmittal Form - 1 page
Fee Transmittal - 2 pages (original and one copy)
Return Receipt Postcard
Reply Brief - 12 pages (4 page brief in triplicate)



Attorney Docket No. 9319

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#16
10-14-03

In re)	
Application of)	Examiner: TU M. NGUYEN
PATRICK C. MARKS ET AL.)	Art Unit: 3748
Serial No.: 10/051,003)	Docket No: 9319
Filed: JANUARY 18, 2002)	
For: MULTIPLE FREQUENCY)	
HELMHOLTZ RESONATOR)	

REPLY BRIEF

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Syracuse, New York
October 2, 2003

Commissioner for Patents
Alexandria, Virginia 22313

Sir:

This is responsive to the Examiner's Answer.

In the Examiner's Answer in the second paragraph on page 7, the Examiner states that "(t)he phrase 'continuous' is defined in a dictionary as 'marked by uninterrupted extension in space, time or sequence'. Thus, in a view point of time (emphasis supplied), as shown in Figure 2, the closed chamber (9) in Jessberger defines a Helmholtz resonator which is continuously operatively connected to the inlet line (1) via a

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restricted connection (7) to reduce noise in the engine at all times (or for an uninterrupted extension of time), regardless if the connection (7) is open or closed." This interpretation of continuous gives no weight to "uninterrupted" as part of the recited definition and gives no weight to open or operative versus closed or inoperative relative to the functioning of the restricted connection for attenuation noise.

In claims 3, 7 and 9, there is a recitation of "a Helmholtz resonator continuously operatively connected to said inlet line via a restricted connection" and this is believed to positively recite a restricted connection that is continuously connected to the inlet line which equates to open. Claims 3 and 7 further recite "means for attenuating noise" which is further defined as "includ(ing) at least one restricted connection which is selectively connected between said chamber and said inlet line" and this is believed to positively recite a second restricted connection. Further, it is believed that the terms "continuously connected" and "selectively connected" are mutually exclusive and cannot apply to the same restricted connection. This interpretation is contested by the Examiner in the first full paragraph on page 8 of the Examiner's Answer. While the Examiner correctly states that "(i)n claim 3 or 7 of the pending application, there is only one means plus function limitation", it appears starting at line 6 of claims 3 and line 7 of claim 7. There is a positive recitation of structure prior to the positive recitation of the means plus function and the Examiner ignores this recitation of structure as being separate from the means plus function structure. Accordingly, the Examiner concludes that the means plus function recitation incorporates the previously positively recited structure stating that "(t)his limitation [the prior recited structure] recites 'a restricted connection which is selectively connected between the chamber and the inlet line.'"

The Examiner further correctly states in the first full paragraph on page 8 that "(t)he limitation that recited 'a restricted connection which is continuously operatively connected between the chamber and the inlet line' is not a means plus function limitation." Since it is just a pipe it is not believed to require, or justify, a means plus function recitation. The Examiner, however, concludes "(t)hus, based on the means plus

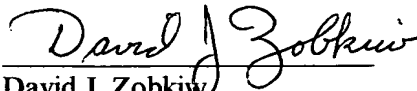
function limitations and because of the absence of the phrases 'first' and 'second' in these claims, the Examiner has determined that the limitations in claim 3 or 7 fail to specify two restricted connections for any embodiment in the pending application." The Examiner, states that "in the broadest reasonable interpretation of claims 3 and 7, the examiner has concluded that the restricted connection (7) in Jessberger is selectively, continuously, and operatively connected between the chamber (9) and the inlet line (1)." It is believed that this conclusion is clearly erroneous.

Clam 9 recites "a valve having only an open and a closed position" and in the last paragraph on page 9 of the Examiner's Answer, the Examiner argues that this is disclosed in Jessberger and states that "(a)s indicated on lines 10-13 of column 3, with regard to opening and closing of the restricted connections (7,8), the valve (10) in Jessberger has only an open and a closed position. This is further confirmed by analyzing Figure 3. As can be seen the design of valve (10) makes it impossible to either open or close both restricted connections (7, 8). The phrase 'or also both can be open or closed' on line 14 of column 3 clearly indicates a design feature of a different valve for a different embodiment because of the word 'or' at the beginning of the phrase."

The Examiner is clearly wrong on all of the conclusions with respect to valve 10. The valving action of valve 10 is only described in a single sentence at column 3 lines 10-14 which describes a single embodiment having four valving positions. With reference to Figure 3, rotation of valve 10, 30°, or so, in a clockwise direction or 60°, or so, in a counterclockwise direction would have both 5 and 6 open. Note the structure clockwise of the lead line for numeral 10 in Figure 3 and that patent drawings need not be drawn to scale. Rotation of valve 10 in a clockwise direction 150°-180°, or so, could block both 5 and 6.

In summary, it is believed that the claim language and reference have been misinterpreted and that claims 3, 7 and 9 are allowable over Jessberger.

Respectfully submitted,
PATRICK C. MARKS ET AL.


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